

<b>Notice of Allowability</b>	Application No.	Applicant(s)
	10/775,362	POHLER, JERZY
	Examiner Henry M Johnson, III	Art Unit 3739

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTO-85) or other appropriate communication will be mailed in due course. THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS. This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1.  This communication is responsive to POA filed 07 February 2005.
2.  The allowed claim(s) is/are 1-20.
3.  The drawings filed on 10 February 2004 are accepted by the Examiner.
4.  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a)  All
  - b)  Some\*
  - c)  None
 of the:
  1.  Certified copies of the priority documents have been received.
  2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3.  Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5.  A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6.  CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
  - (a)  including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
    - 1)  hereto or 2)  to Paper No./Mail Date \_\_\_\_\_.
  - (b)  including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7.  DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

#### Attachment(s)

1.  Notice of References Cited (PTO-892)
2.  Notice of Draftperson's Patent Drawing Review (PTO-948)
3.  Information Disclosure Statements (PTO-1449 or PTO/SB/08),  
Paper No./Mail Date 021004
4.  Examiner's Comment Regarding Requirement for Deposit  
of Biological Material
5.  Notice of Informal Patent Application (PTO-152)
6.  Interview Summary (PTO-413),  
Paper No./Mail Date \_\_\_\_\_.
7.  Examiner's Amendment/Comment
8.  Examiner's Statement of Reasons for Allowance
9.  Other \_\_\_\_\_.



Henry M. Johnson, III  
Primary Examiner  
Art Unit: 3739

### **EXAMINER'S AMENDMENT**

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Gerald Gowan on April 22, 2005.

The application has been amended as follows.

Claim 1 has been replaced with:

A cryotherapy device for the treatment of hemorrhoids, comprising: a hollow applicator having a wall, wherein the wall of said applicator defines a plurality of slots; and said applicator having a proximal end with an opening; and a sleeve having an open end such that said applicator can slide into said sleeve and said sleeve covers the slots defined by the wall of said applicator.

In claim 6, lines 1-2 "sealing cap" has been deleted and -- sealing cap over said applicator opening -- has been inserted.

### **Reasons For Allowance**

The prior art of record does not disclose or fairly suggest an apparatus and method for treating hemorrhoids comprising a hollow applicator, open at a proximal end and having slots along a wall portion and a removable sleeve for receiving the applicator such that the slots are covered by the sleeve. The open end of the applicator provides for filling the applicator with a medication in gel form that is chilled prior to use, the medication being contained within the applicator by closing the end and inserting it in the protective sleeve. The sleeve is removed

prior to use. The slots allow release of the medication upon removal of the sleeve. U.S. Patent 4,563,182 to Stoy et al. teaches a rectal insert for treating hemorrhoids having a tubular shape and a multiplicity of orifices, that contains a medicated gel packaged in a mold wherein the device is filled with the medication by injecting the medication into the mold where it enters the device via the orifices. The applicator does not have an open proximal end, nor is a sleeve disclosed with an open end that slides over the applicator. The Stoy et al. device limits the medication to that supplied at the time of manufacture. U.S. Patent 3,894,539 to Tallent discloses a medication applicator for treating hemorrhoids, the applicator having an open end for filling with medication and perforations for release of the medication. No sleeve is provided as Tallent does not chill or freeze the device prior to use, so no method of containing the medication is required. EP 0 091 405 to Cavina discloses a hemorrhoid treatment device with a cooling portion and a medication portion. A sleeve is not disclosed nor would there be motivation to use a sleeve as the medication is not introduced until after insertion of the device.

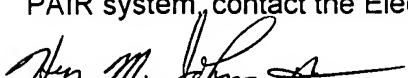
### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Henry M Johnson, III whose telephone number is (571) 272-4768. The examiner can normally be reached on Monday through Friday from 6:00 AM to 3:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Linda C Dvorak can be reached on (571) 272-4764. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 3739

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Henry M. Johnson, III  
Primary Examiner  
Art Unit 3739